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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte IWO WILLEM and RUDOLPH MARTHERUS

Appeal 2017-000532
Application 14/128,235
Technology Center 2600

Before JAMES R. HUGHES, CARL L. SILVERMAN, and
CATHERINE SHIANG, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 3–8, 10–12, and 14, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

STATEMENT OF THE CASE

Introduction

According to the Specification, the present invention relates to displaying medical images. *See generally* Spec. 1. Claim 1 is exemplary:

1. A system for zooming an image displayed in a viewport, wherein the image comprises a plurality of regions partitioning the viewport, the plurality of regions having a plurality of associated zoom functions, respectively, associated with the regions, the system comprising:

an input unit configured to receive a region input, including a location in the viewport, for selecting a region of the plurality of regions of the image, and to receive a zoom input for zooming the image according to the zoom function associated with the selected region, the selected region being the region of the plurality of regions that includes the location in the viewport included in the region input; and

a zoom unit configured to zoom the image based on the zoom input, using the zoom function associated with the selected region.

References and Rejections¹

Claims 1, 3, 5, 7–8, 11–12, and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Morita (US 7,127,684 B2, issued Oct. 24, 2006).

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita and Kallergi (US 6,630,937 B2, issued Oct. 7, 2003).

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita and Alvarez (US 7,715,653 B2 issued May 11, 2010).

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Morita and Sabol (US 6,748,044 B2, issued Jun. 8, 2004).

¹ The Examiner withdrew a rejection under 35 U.S.C. § 101. Ans. 3.

ANALYSIS

Anticipation

We have reviewed the Examiner’s rejection in light of Appellants’ contentions and the evidence of record. We concur with Appellants’ contention that the Examiner erred in finding Morita discloses “A system for zooming an image displayed in a viewport, wherein the image comprises a plurality of regions partitioning the viewport, *the plurality of regions having a plurality of associated zoom functions, respectively, associated with the regions,*” as recited in independent claim 1 (emphasis added).² See App. Br. 10–13; Reply Br. 6–7.

First, according to our reviewing court:

If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is “necessary to give life, meaning, and vitality” to the claim, then the claim preamble should be construed as if in the balance of the claim. Indeed, when discussing the “claim” in such a circumstance, there is no meaningful distinction to be drawn between the claim preamble and the rest of the claim, for only together do they comprise the “claim.” If, however, the body of the claim fully and intrinsically sets forth the complete invention, including all of its limitations, and the preamble offers no distinct definition of any of the claimed invention’s limitations, but rather merely states, for example, the purpose or intended use of the invention, then the preamble is of no

² Appellants raise additional arguments. Because the identified issue is dispositive of the appeal, we do not reach the additional arguments.

significance to claim construction because it cannot be said to constitute or explain a claim limitation.

Pitney Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1305 (Fed. Cir. 1999) (citations omitted) (emphases added).

The Examiner asserts the limitation “the plurality of regions having a plurality of associated zoom functions, respectively, associated with the regions” is in the preamble and should not have patentable weight. *See* Ans. 7, 13–14.

We agree with Appellants that the limitation has patentable weight, as “a plurality of associated zoom functions” provides the requisite antecedent basis for the claim element “the zoom function,” which is recited in the body of the claim. *See* App. Br. 11–12. Therefore, when read in the context of the entire claim, “the plurality of regions having a plurality of associated zoom functions, respectively, associated with the regions” recites limitations of the claim, and is “necessary to give life, meaning, and vitality” to the claim. *Pitney Bowes*, 182 F.3d at 1305.

Second, it is well established that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (citations omitted). Inherency can only be established when “prior art necessarily functions in accordance with, or includes, the claimed limitations.” *Cruciferous Sprout Litig.*, 301 F.3d at 1349 (citations omitted).

The Examiner cites excerpts from Morita’s columns 10 and 11, and Figures 7 and 11 for disclosing “the plurality of regions having a plurality of associated zoom functions, respectively, associated with the regions.” *See*

Final Act. 12; Ans. 8–9. We have examined the cited Morita portions, and they discuss *a* zoom function, not “a plurality of . . . zoom functions.” *See* Morita 10:15–17 (“The zoom function, magnification function, and sizing function are generally controlled by user inputs through the operator control device **116**.”); 11:23–25 (“a zoom function for zooming in toward and out from at least a portion of the plurality of generally similarly shaped objects within the plurality of view ports”). The Examiner’s unsupported assumption about what Morita’s user *may* do (Ans. 8–9) is insufficient for the anticipation rejection.

Because the Examiner fails to provide sufficient evidence or explanation to support the anticipation rejection, we are constrained by the record to reverse the Examiner’s rejection of claim 1.

Each of independent claims 12 and 14 recites a claim limitation that is substantively similar to the disputed limitation of claim 1. *See* claims 12 and 14. Therefore, for similar reasons, we reverse the Examiner’s rejection of independent claims 12 and 14.

We also reverse the Examiner’s rejection of corresponding dependent claims 3, 5, 7–8, and 11.

Obviousness

The Examiner cites additional references for the obviousness rejection of claims 4, 6, and 10. The Examiner relies on Morita in the same manner discussed above in the context of claim 1, and does not rely on the additional references in any manner that remedies the deficiencies of the underlying anticipation rejection. *See* Final Act. 17–19.

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Accordingly, we reverse the Examiner's obviousness rejection of claims 4, 6, and 10.

DECISION

We reverse the Examiner's decision rejecting claims 1, 3–8, 10–12, and 14.

REVERSED